

Court of Appeals, State of Michigan

ORDER

People of MI v Robert Michael Anthony, Jr.

Docket No. 265918

LC No. 05-003923-FH

William B. Murphy
Presiding Judge

Richard A. Bandstra

Jane E. Markey
Judges

The Court orders that the motion to withdraw is DENIED. Pursuant to MCR 7.216(A)(5) and (9), the Court REMANDS this matter to the trial court so that appellant may file, within 14 days, a motion for resentencing for the purpose of creating an evidentiary record with regard to whether the two prior convictions used to establish defendant's status as a third-offense habitual offender arose out of a single transaction and, therefore, may only serve as a single conviction for enhancement purposes. *People v Stoudemire*, 429 Mich 262, 278; 414 NW2d 693 (1987), mod *People v Preuss*, 436 Mich 714; 461 NW2d 703 (1990); *People v Jones*, 171 Mich App 720, 726; 431 NW2d 204 (1988).

Appellant is to file with this Court a copy of any motion and any supporting brief filed in the trial court within 14 days of the Clerk's certification of this order. **The trial court is to hear and decide the matter within 56 days of the Clerk's certification of this order.** Appellant must also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry.

The trial court is to make findings of fact and a determination on the record. The trial court is to cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

This Court retains jurisdiction in this cause, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings. Appellant counsel may renew his motion to withdraw following remand proceedings, if appropriate.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 16 2006

Date

Sandra Schultz Mengel
Chief Clerk